

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 465

Introduced by Redfield, 12

Read first time January 13, 2005

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend sections 44-371 and
2 44-1089, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to claims of creditors; and to repeal
4 the original sections.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-371, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-371. (1) (a) All proceeds, cash values, and benefits
4 accruing under any annuity contract, under any policy or
5 certificate of life insurance payable upon the death of the insured
6 to a beneficiary other than the estate of the insured, or under any
7 accident or health insurance policy shall be exempt from
8 attachment, garnishment, or other legal or equitable process and
9 from all claims of creditors of the insured and of the beneficiary
10 if related to the insured by blood or marriage, unless a written
11 assignment to the contrary has been obtained by the claimant.

12 (b) This subsection shall not apply to an individual's
13 ~~aggregate~~ interests greater than ~~ten~~ one hundred thousand dollars
14 on all loan values or cash values of all matured or unmatured life
15 insurance ~~contracts or to~~ policies entered into or effective for a
16 period of less than three years or to an individual's interests
17 greater than one hundred thousand dollars on all proceeds, cash
18 values, or benefits accruing under all annuity contracts entered
19 into or effective for a period of less than three years. This
20 subsection also shall not apply to additional, unscheduled premium
21 payments into existing life insurance policies and purchase
22 payments into existing annuity contracts within the three-year
23 period preceding any bankruptcy. The dollar amounts in this
24 subdivision and subdivision (2) (b) of section 44-1089 shall not be
25 aggregated. owned by such individual. Notwithstanding anything in
26 this subdivision to the contrary, the aggregate exemptions any
27 person may claim under this subdivision and subdivision (2) (b) of
28 section 44-1089 shall not exceed ten thousand dollars.

1 (c) No insurance company shall be liable or responsible
2 to any person to determine or ascertain the aggregate total of life
3 insurance policy or annuity contract loan values, cash values,
4 proceeds, or benefits for any policyholder or annuitant.

5 (2) Notwithstanding subsection (1) of this section,
6 proceeds, cash values, and benefits accruing under any annuity
7 contract or under any policy or certificate of life insurance
8 payable upon the death of the insured to a beneficiary other than
9 the estate of the insured shall not be exempt from attachment,
10 garnishment, or other legal or equitable process by a judgment
11 creditor of the beneficiary if the judgment against the beneficiary
12 was based on, arose from, or was related to an act, transaction, or
13 course of conduct for which the beneficiary has been convicted by
14 any court of a crime punishable only by life imprisonment or death.
15 No insurance company shall be liable or responsible to any person
16 to determine or ascertain the existence or identity of any such
17 judgment creditor prior to payment of any such proceeds, cash
18 values, or benefits. This subsection shall apply to any judgment
19 rendered on or after January 1, 1995, irrespective of when the
20 criminal conviction is or was rendered and irrespective of whether
21 proceedings for attachment, garnishment, or other legal or
22 equitable process were pending on March 14, 1997.

23 Sec. 2. Section 44-1089, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 44-1089. (1) No noninsurance benefit, charity, relief,
26 or aid to be paid, provided, or rendered by any society shall be
27 liable to attachment, garnishment, or other process, or to be
28 seized, taken, appropriated, or applied by any legal or equitable

1 process or operation of law to pay any debt or liability of a
 2 member or beneficiary, or any other person who may have a right
 3 thereunder, either before or after payment by the society.

4 (2) (a) All proceeds, cash values, and benefits accruing
 5 under any annuity contract, under any policy or certificate of life
 6 insurance payable upon the death of the insured to a beneficiary
 7 other than the estate of the insured, or under any accident or
 8 health insurance policy shall be exempt from attachment,
 9 garnishment, or other legal or equitable process and from all
 10 claims of creditors of the insured and of the beneficiary if
 11 related to the insured by blood or marriage, unless a written
 12 assignment to the contrary has been obtained by the claimant.

13 (b) This subsection shall not apply to an individual's
 14 ~~aggregate~~ interests greater than ~~ten~~ one hundred thousand dollars
 15 on all loan values or cash values of all matured or unmatured life
 16 insurance ~~contracts or to~~ policies entered into or effective for a
 17 period of less than three years or to an individual's interests
 18 greater than one hundred thousand dollars on all proceeds, cash
 19 values, or benefits accruing under all annuity contracts entered
 20 into or effective for a period of less than three years. This
 21 subsection also shall not apply to additional, unscheduled premium
 22 payments into existing life insurance policies and purchase
 23 payments into existing annuity contracts within the three-year
 24 period preceding any bankruptcy. The dollar amounts in this
 25 subdivision and subdivision (1) (b) of section 44-371 shall not be
 26 aggregated. owned by such individual. Notwithstanding anything in
 27 this subdivision to the contrary, the aggregate exemptions any
 28 person may claim under subdivision (1) (b) of section 44-371 and

1 ~~this subdivision shall not exceed ten thousand dollars.~~

2 (c) No fraternal benefit society shall be liable or
3 responsible to any person to determine or ascertain the aggregate
4 total of policy or certificate of life insurance or annuity
5 contract loan values, cash values, proceeds, or benefits for any
6 policy or certificate owner or annuitant.

7 (3) Notwithstanding subsection (2) of this section,
8 proceeds, cash values, and benefits accruing under any annuity
9 contract or under any policy or certificate of life insurance
10 payable upon the death of the insured to a beneficiary other than
11 the estate of the insured shall not be exempt from attachment,
12 garnishment, or other legal or equitable process by a judgment
13 creditor of the beneficiary if the judgment against the beneficiary
14 was based on, arose from, or was related to an act, transaction, or
15 course of conduct for which the beneficiary has been convicted by
16 any court of a crime punishable only by life imprisonment or death.
17 No fraternal benefit society shall be liable or responsible to any
18 person to determine or ascertain the existence or identity of any
19 such judgment creditor prior to payment of any such proceeds, cash
20 values, or benefits. This subsection shall apply to any judgment
21 rendered on or after January 1, 1995, irrespective of when the
22 criminal conviction is or was rendered and irrespective of whether
23 proceedings for attachment, garnishment, or other legal or
24 equitable process were pending on March 14, 1997.

25 Sec. 3. Original sections 44-371 and 44-1089, Reissue
26 Revised Statutes of Nebraska, are repealed.